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10/562,076	12/22/2005	Stefan Trohler	890062.401USPC	9496
500 7590 12/10/2007 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 5400 SEATTLE, WA 98104			EXAMINER BRUCKART, BENJAMIN R	
			ART UNIT 2155	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/562,076

Applicant(s)

TROHLER, STEFAN

Examiner

Benjamin R. Bruckart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5 June 2007.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **Detailed Action**

Claims 21-36 are pending in this Office Action.

Claims 1-20 are cancelled by preliminary amendment.

The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. The Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

### **Information Disclosure Statement**

The information disclosure statement filed on 6/5/2007 has been considered except for the Non-Patent Literature document by Busch is not in English and does not have an English abstract.

### **Preliminary Amendment**

The preliminary amendment filed 6/5/07 is entered except for the abstract. Replacement abstracts should be clean (without markups).

### **Specification**

A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text. The examiner requests a clean copy of the abstract in which the changes of the not-entered 6/5/07 are made.

### **Claim Objections**

Claim 21 is objected to because of the following informalities: Claim 1 recites the pronoun "this" in the sixth line. While it is believed the applicant is referring to 'biometric data and/or data on physical condition' of the user, the examiner requests the replacement of the pronoun with the actual meaning to preclude ambiguous meanings. Appropriate correction is required.

### **Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 21, 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 21 and 29 recites the limitation "the user code being entered by the user via input elements of the data recording client" in the second to last limitation of the claim. The examiner is confused by limitation. How can the client input a user code after it is generated and sent from the central unit? This line contradicts the idea that the server generates it and sends it to the mobile unit. The examiner interprets the claim limitation in light of the specification, where a user code is defined by the client inputting an identification (spec. page 12, second paragraph).

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 21-23, 25, 27; 29-31, 33, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable by European Patent Application EP 1 158 467 by Depp et al ("Applicants IDS") in view of U.S. Patent Publication No. 2004/0109588 by Houvener in further view of U.S. Patent No. 5,719,950 by Osten ("Applicants IDS").**

Regarding claim 21,

The Depp reference teaches a work time recording method (Depp: col. 2, para 8), in which user data are recorded by a data recording client (Depp: col. 2, para 7), and are transmitted to a central unit via a first communication channel (Depp: col. 2, para 8), a user being identified based on the user data by a user database (Depp: col. 4, para 14), wherein:

the data recording client records biometric data and/or data on physical condition of the user by using an input unit of the data recording client (Depp: col. 3, para 12), and transmits this data together with the user data via a first communication channel to the central unit (Depp: col. 4, para 14);

the central unit compares the transmitted biometric data and/or data on physical condition with biometric data and/or data on physical condition of users stored in the user database, and a user is identified by the central unit (Depp: col. 6, para 20),

the data records of the user are transmitted to a remuneration recording module, and are evaluated and/or checked by the remuneration recording module (Depp: col. 8, para 25).

The Depp reference fails to teach a probably based on a threshold.

However, the Houvener reference teaches biometric identification based on the probability of a correspondence of the transmitted biometric data to defined stored biometric data lies above a threshold (Houvener: page 1, para 7); and

with successful identification, at least one user status, assigned to a data record of the identified user, is modified and stored, based on time and/or place of recording of the user data (Houvener: page 2, para 21) in order to screen authorized personnel (Houvener: page 1, para 7);

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by Depp to include probability of a correspondence of transmitted biometric data to defined stored biometric data based on a

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threshold as taught by Houvener (Houvener: page 1, para 7) in order to screen authorized personnel (Houvener: page 1, para 7).

The modified Depp reference to teach an additional identification

However, the Osten reference teaches an additional identification of the user takes place by using a user code, which user code is generated by the central unit based on the identification of the user and transmitted biometric data (Osten: col. 4, lines 54- col. 6, line 4), and is transmitted via a second communication channel to a unit of the user (Osten: col. 9, lines 66- col. 10, line 11), the user code being entered by the user via input elements of the data recording client (Osten: col. 4, lines 54- col. 6, line 4) in order to authenticate, recognize and control access to resources (Osten: col. 1, line 56-63).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by the modified Depp to include additional identification (Osten: col. 4, lines 54- col. 6, line 4) as taught by Osten in order to authenticate, recognize and control access to resources (Osten: col. 1, line 56-63).

Regarding claim 22, the Depp reference teaches the work time recording method according to claim 21. The Depp reference fails to teach access defined by identification.

However, the Houvener reference teaches wherein access to definable premises and/or use of definable devices is granted to the user by the central unit only with successful identification and authorization (Houvener: page 2, para 21) in order to screen authorized personnel (Houvener: page 1, para 7).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by Depp to include probability of a correspondence of transmitted biometric data to defined stored biometric data based on a threshold as taught by Houvener (Houvener: page 1, para 7) in order to screen authorized personnel (Houvener: page 1, para 7).

Regarding claim 23, the work time recording method according to claim 22, wherein captured and/or transmitted with the user data are additionally premise-specific and/or device-specific control data, access or use being granted the central unit in dependence upon the control data

(Depp: col. 5, para 18).

Regarding claim 25, the Depp reference teaches the work time recording method according to claim 21. The Depp reference fails to teach access defined by identification.

However, the Houvener reference teaches additional identification by the central unit by using the user code takes place only where a probability of a correspondence of the transmitted biometric data to defined stored biometric data lies below the threshold (Houvener: page 3, para 225, 26) in order to screen authorized personnel (Houvener: page 1, para 7).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by Depp to include probability of a correspondence of transmitted biometric data to defined stored biometric data based on a threshold as taught by Houvener (Houvener: page 1, para 7) in order to screen authorized personnel (Houvener: page 1, para 7).

Regarding claim 27, the work time recording method according to claim 21, wherein different central units access the same database with the stored biometric data of the user via a network, the database being adapted for identifying and/or authorizing the different central units and for transmitting and receiving data over the network (Depp: Fig.1).

Regarding claim 29,

The Depp reference teaches a work time recording system (Depp: col. 2, para 8), which comprises a data recording client to capture user data (Depp: col. 2, para 7) and to transmit the user data over a first communication channel to a central unit (Depp: col. 2, para 8), a user being identifiable based on the user data by use of a user database (Depp: col. 4, para 14), wherein:

biometric data and/or data on physical condition of the user (Depp: col. 3, para 12), which are able to be captured by an input unit of the data recording client, are transmittable together with the user data (Depp: col. 4, para 14);

the user database includes stored biometric data and/or data on physical condition of the user, by which a user is identifiable (Depp: col. 6, para 20),

the time recording system including a remuneration recording module to periodically evaluate and/or check data records of users (Depp: col. 8, para 25).

The Depp reference fails to teach a probably based on a threshold.

However, the Houvener reference teaches biometric identification based on the probability of a correspondence of the transmitted biometric data to defined stored biometric data lies above a threshold (Houvener: page 1, para 7); and

with successful identification, at least one user status, assigned to a data record of the identified user, is modified and stored, based on time and/or place of recording of the user data (Houvener: page 2, para 21) in order to screen authorized personnel (Houvener: page 1, para 7);

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by Depp to include probability of a correspondence of transmitted biometric data to defined stored biometric data based on a threshold as taught by Houvener (Houvener: page 1, para 7) in order to screen authorized personnel (Houvener: page 1, para 7).

The modified Depp reference to teach an additional identification

However, the Osten reference teaches the central unit includes means of generating a user code as well as a second communication channel for transmitting the user code to a mobile unit of the user, the user entering the user code via input elements of the data recording client (Osten: col. 4, lines 54- col. 6, line 4) in order to authenticate, recognize and control access to resources (Osten: col. 1, line 56-63).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by the modified Depp to include additional identification (Osten: col. 4, lines 54- col. 6, line 4) as taught by Osten in order to authenticate, recognize and control access to resources (Osten: col. 1, line 56-63).

Regarding claim 30, the Depp reference teaches the work time recording system according to claim 29. The Depp reference fails to teach access defined by identification.

However, the Houvener reference teaches access control modules to grant access to definable premises and/or use of definable devices to the user by the central unit only with

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successful identification and authorization (Houvener: page 2, para 21) in order to screen authorized personnel (Houvener: page 1, para 7).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by Depp to include probability of a correspondence of transmitted biometric data to defined stored biometric data based on a threshold as taught by Houvener (Houvener: page 1, para 7) in order to screen authorized personnel (Houvener: page 1, para 7).

Regarding claim 31, the work time recording system according to claim 30, wherein the user data additionally comprise premises-specific and/or device-specific control data, access and/or use being determinable by the central unit in dependence upon the control data (Depp: col. 5, para 18).

Regarding claim 33, the Depp reference teaches the work time recording system according to claim 29. However, the Houvener reference teaches additional identification through user code by the central unit takes place only where the probability of a correspondence of the transmitted biometric data with defined stored biometric data lies below the threshold (Houvener: page 3, para 225, 26) in order to screen authorized personnel (Houvener: page 1, para 7).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by Depp to include probability of a correspondence of transmitted biometric data to defined stored biometric data based on a threshold as taught by Houvener (Houvener: page 1, para 7) in order to screen authorized personnel (Houvener: page 1, para 7).

Regarding claim 35, the work time recording system according to claim 29, further comprising means for bidirectional access to the database by different central units via at least one network, the database including means for identifying and/or authorizing the different central units and means for transmitting and receiving data over the network (Depp: Fig.1).

**Claims 24, 26, 28, 32, 34, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable by European Patent Application EP 1 158 467 by Depp et al ("Applicants IDS"). in view of U.S. Patent Publication No. 2004/0109588 by Houvener in further view of U.S. Patent No. 5,719,950 by Osten ("Applicant IDS") in further view of U.S. Patent Publication 2004/0140542 by Prokoski et al ("Applicants IDS").**

Regarding claim 24, the modified Depp reference teaches the work time recording method according to claim 21. The modified Depp reference fails to teach the mobile unit is a PDA.

However, the Prokoski reference teaches wherein the mobile unit comprises a mobile radio device and/or a PDA and/or a mobile node of a WLAN (Prokoski: page 3, para 30) for allowing users to provide a biometric key usable at different locations (Prokoski: page 3, para 21-22).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by the modified Depp to include mobile biometric devices as taught by Prokoski (Prokoski: page 3, para 30) for allowing users to provide a biometric key usable at different locations (Prokoski: page 3, para 21-22).

Regarding claim 26, the modified Depp reference teaches the work time recording method according to claim 21. The modified Depp reference fails to teach storing new biometric data.

However, the Prokoski reference teaches wherein after successful additional identification of the user through user code, new biometric data are captured by the input unit of the data recording client, and are stored, assigned to the user, in the database (Prokoski: page 6, para 71, 74, 79) in order to update biometric data as people change (Prokoski: page 6, para 79).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by the modified Depp to include updating biometric data as taught by Prokoski (Prokoski: page 3, para 30) for allowing users to provide a biometric key usable over time (Prokoski: page 3, para 21-22).

Regarding claim 32, the modified Depp reference teaches the work time recording system according to claim 29. The modified Depp reference fails to teach the mobile unit is a PDA.

However, the Prokoski reference teaches, wherein the mobile unit comprises a mobile radio device and/or a PDA and/or a mobile node of a WLAN (Prokoski: page 3, para 30) for

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allowing users to provide a biometric key usable at different locations (Prokoski: page 3, para 21-22).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by the modified Depp to include mobile biometric devices as taught by Prokoski (Prokoski: page 3, para 30) for allowing users to provide a biometric key usable at different locations (Prokoski: page 3, para 21-22).

Regarding claim 34, the modified Depp reference teaches the work time recording system according to claim 29. The modified Depp reference fails to teach storing new biometric data.

However, the Prokoski reference teaches after successful additional identification of the user through user code, new biometric data are able to be captured by the input unit of the data recording client, and are storable, assigned to the user, in the database (Prokoski: page 6, para 71, 74, 79) in order to update biometric data as people change (Prokoski: page 6, para 79).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by the modified Depp to include updating biometric data as taught by Prokoski (Prokoski: page 3, para 30) for allowing users to provide a biometric key usable over time (Prokoski: page 3, para 21-22).

Regarding claim 28, the modified Depp reference teaches the work time recording method according to claim 21. The modified Depp reference fails to teach storing new biometric data.

However, the Prokoski reference teaches, wherein used as data recording client is a mobile node of a WLAN or a mobile radio device (Prokoski: page 3, para 30) for allowing users to provide a biometric key usable at different locations (Prokoski: page 3, para 21-22).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by the modified Depp to include mobile biometric devices as taught by Prokoski (Prokoski: page 3, para 30) for allowing users to provide a biometric key usable at different locations (Prokoski: page 3, para 21-22).

Regarding claim 36, the modified Depp reference teaches the work time recording system according to claim 29. The modified Depp reference fails to teach storing new biometric data.

However, the Prokoski reference teaches, wherein the data recording client is integrated in a mobile node of a WLAN or a mobile radio device (Prokoski: page 3, para 30) for allowing users to provide a biometric key usable at different locations (Prokoski: page 3, para 21-22).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the work time recording method as taught by the modified Depp to include mobile biometric devices as taught by Prokoski (Prokoski: page 3, para 30) for allowing users to provide a biometric key usable at different locations (Prokoski: page 3, para 21-22).

#### **Prior Art**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U. S. Patent No. 6,317,544 by Diehl et al teaches mobile workstation biometric authentication see col. 1, lines 58- col. 2, line 21.

#### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin R Bruckart whose telephone number 571-272-3982.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and after final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the examiner whose telephone number is 571-272-3982.

  
PHILIP TRAN  
PRIMARY EXAMINER

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Benjamin R Bruckart

Examiner

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